

SELF-SERVICE CENTER

INFORMATION ON HOW TO GET A CHANGE OF PARENTING TIME (formerly known as “VISITATION”) or PARENTING TIME and CHILD SUPPORT

IMPORTANT INFORMATION. The following is important information on when you can legally ask the court for a change of parenting time or parenting time and child support. Read it carefully before you fill out the Petition.

1. WHEN CAN YOU FILE FOR A CHANGE OF PARENTING TIME?

- ◆ At least one (1) year has passed since your joint or sole custody and parenting time order was signed by the court and there have been significant changes in circumstances that make a change in parenting time necessary for the good of the child, **OR**
- ◆ At least six (6) months have passed and the other parent has not followed the joint custody and parenting time order. (Warning: This only applies to **joint** custody and parenting time orders.) **OR**
- ◆ There has been domestic violence, spousal abuse, or child abuse and you have evidence that the best interest of your child(ren) requires a change.
- ◆ There is reason to believe that the child(ren)'s current environment may seriously endanger the child(ren)'s physical, mental, moral or emotional health and your child(ren) is/are at risk.

WARNING: If enough time has **not** passed since the signing of your decree/order to allow you to file for a change of parenting time, you **cannot** file for a change of parenting time, unless your case falls under one of the exceptions listed above. You may, however, want to seek mediation or counseling as soon as possible (see below).

IMPORTANT: If you have reason to believe that the other parent, or someone associated with the other parent, is physically abusing or hurting your child(ren), you should contact Child Protective Services or your local Police Department immediately. If your child is in a dangerous situation, you should take steps to file for an Emergency Change of Parenting time as soon as possible. You will also need to fill out the ***“Petition to Modify Parenting time and/or Child Support”*** to get a permanent change of parenting time and/or child support. All forms are available through the Self-Service Center.

2. THINGS TO CONSIDER BEFORE FILING A CHANGE OF PARENTING TIME:

- A.** Filing for a change of parenting time is a serious matter and generally should be considered as a **last resort**. Raising the child(ren) in two households, arranging for parenting time, and making joint decisions about the child(ren)'s welfare can lead to high levels of stress, conflict, and anger between you and the other party, and the child(ren). Unless, your child(ren) is/are in immediate physical or emotional risk, you may want to seek counseling or mediation **before** you take legal action. Mediation is a process where you and the other parent meet with a professional who will try to help you work together to find a solution to your problem. The mediator is not there to take sides, but can help you understand the other parent's point of view. The mediator will help you approach your problems in a way that will more likely lead to an agreement and will help you to focus on your child(ren)'s needs first. Mediation services are available through Expedited Services in the Superior Court, or through private mediation services. You may also want to consider family counseling to learn how to better deal with ongoing problems. A list of mediators and counselors is available through the Self-Service Center or you can contact Community Information and Referral Services at 602-263-8856.
- B.** To change parenting time and/or child support, you must convince the judge through appropriate

evidence, that the best interests of the child(ren) requires the change. The judge usually will not make a change unless you can show that there is a **substantial and continuing change of circumstances**. What this means is that you must convince the judge that something has happened since the Decree or Order was signed that will be **continuing**. You must show that the change or situation has a **substantial effect** on the child(ren)'s well-being. Judges generally do **not** want to put the child(ren) through another serious change in surroundings, unless he/she is convinced it is necessary for the child(ren)'s welfare. In addition, if you have reasonable parenting time and the child(ren) is/are being neglected or abused during parenting time, then you may want to request that parenting time be supervised or consider asking for a change of custody.

There are many things the judge may look at in deciding "the best interest of the child(ren)." The law says that the court will look at issues such as:

- ✓ how the child(ren) relate(s) to parents, brothers and sisters;
- ✓ how the child(ren) is/are doing in school and socially;
- ✓ which parent is more likely to cooperate in giving parenting time to the other parent;
- ✓ which parent is better able mentally and physically to care for the child(ren);
- ✓ which parent has provided the primary care to the child(ren); and
- ✓ evidence of what a parent has done to convince the other parent to make a custody agreement.

The court will consider domestic violence against you, the child(ren), or another person in the child(ren)'s presence to be a serious consideration in deciding whether to change custody. Evidence of drug or alcohol abuse by either parent is also an important factor in a custody decision.

3. **TIPS FOR FILING A CHANGE OF PARENTING TIME** A change of parenting time has several special requirements that you should understand before you begin.

- Tip #1:** Whenever possible, try to solve your parenting time problems through counseling or mediation, **unless** your child(ren) is/are at immediate risk. If you don't try to solve your problems before you file, your chances of success will be reduced in court.
- Tip #2:** Before you file, make sure six (6) months have passed since your final joint custody Decree/Order was signed, or one (1) full year has passed since your sole custody Decree/Order was signed, **unless** you meet an exception listed above.
- Tip #3:** Be sure that the changes in circumstances that caused you to request the change of parenting time are **important** and **related to issues** of your child(ren)'s long term best interest. Be sure that if you are making allegations of abuse or neglect, that you have witnesses or evidence to back up your statements.
- Tip #4:** If your child(ren) has/have been **seriously hurt or physically abused**, contact the appropriate authorities and file a **"Petition for Emergency Parenting time or Custody"** to get the child(ren) out of the dangerous environment as soon as possible. You will also need to file a **"Petition to Change Custody"** if you are asking for a change in custody. Look for these forms at the Self-Service Center.